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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,030	03/06/2002	Peyton W. Hall	TRIA:005	7597

7590

08/03/2005

O'KEEFE, EGAN & PETERMAN, L.L.P.  
Building C, Suite 200  
1101 Capital of Texas Highway South  
Austin, TX 78746

EXAMINER
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PATEL, NIHIR B

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 08/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/092,030		HALL ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Nihir Patel		3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on March 6<sup>th</sup>, 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12.23.03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Claims **24 and 25** are objected to under 37 CFR 1.75(c) as being in improper. See MPEP § 608.01(n). Accordingly, claims **24 and 25** have not been further treated on the merits.

### ***Claim Rejections - 35 USC § 103***

Claims **1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 22, 23, 26, 27 and 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Forsman et al. (US 2002/0014498 A1) in view of Bond (US 4,362,255) and further in view of Bourget (US 3,187,965).

Referring to claims **1, 2, 3, 4, 5, 7, 16, 17, 18, 19, 20, 22, 23, 26, 27 and 28**, Forsman discloses the applicant's invention as claimed with the exception of providing a bladder that comprises an outer layer of fluorinated rubber composite and a spout that comprises an output port. Bond discloses a barrier spout and cap for flexible bags or pouches that does provide a bladder that comprises an outer layer of fluorinated rubber composite (**see column 2 lines 1-10 and lines 45-55**). Bouget discloses a spout that does provide a spout that comprises an output port **36 (see figures 1 and 2)**. Therefore it would have been obvious to modify Forsman's invention by providing a bladder that comprises an outer layer of fluorinated rubber composite and a spout that comprises an output port as taught by Bond and Bourget in order to keep the fluid within the bag clean.

Referring to claims **8, 9, 10, 11, 12, 13, 15, 16 and 27**, Forsman discloses the applicant's invention as claimed with the exception of providing connecting a first end of a tube to an output port of the spout. Bourget discloses a spout for milk container that provides an output port. Therefore it would have been obvious to modify Forsman's invention by connecting

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a first end of the tube to an output port of the spout as taught by Bourget in order to make it easier to dispense liquid.

**Referring to claims 6, 14 and 21,** The applicant claims that the tube is made of flexible plastic. After taking a closer look at the applicant's specification the examiner found that the applicant has not established any criticality on why the flexible tube must be made of plastic. It is obvious to one in the ordinary skill of the art to make the flexible tube out of plastic or any other flexible material such as rubber and therefore considers it a matter of design choice.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Nihir Patel whose telephone number is (571) 272-4803. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful the examiner supervisor Henry Bennett can be reached at (571) 272 4791.

NP  
July 22<sup>nd</sup>, 2005

Henry Bennett  
Supervisory Patent Examiner  
Group 3700